

# ACTS

AND

JOINT RESOLUTIONS

PASSED BY

# THE GENERAL ASSEMBLY

OF THE

# STATE OF VIRGINIA

DURING THE

SESSION OF 1877-78.

RICHMOND:

R. F. WALKER, SUPERINTENDENT PUBLIC PRINTING.

1878.

**EXHIBIT**

**25**

*Justices, and persons acting under their orders, guiltless, if a person be killed, &c.; if either of them killed, all engaged in the assembly guilty.*

5. If, by any means taken under authority of this chapter to disperse any such assembly, or arrest and secure those engaged in it, any person present, as spectator or otherwise, be killed or wounded, any judge or justice exercising such authority, and every one acting under his order, shall be held guiltless; and if the judge or justice, or any person acting under the order of either of them, be killed or wounded in taking such means, or by the rioters, all persons engaged in such assembly shall be deemed guilty of such killing or wounding.

Persons acting under authority killing of another engaged in a riot, or spectator, held guiltless  
If persons engaged in suppressing a riot be killed, &c., rioters deemed guilty of killing, &c.

*Punishment of rioter, when dwelling-house injured, and when not.*

6. If any rioter pull down or destroy, in whole or in part, any dwelling-house, or assist therein, he shall be confined in the penitentiary not less than two nor more than five years; and though no such house be so injured, every rioter, and every person unlawfully or tumultuously assembled, shall be confined in jail not more than one year, and fined not exceeding one hundred dollars.

Where dwelling-house is destroyed in whole or part  
Penalty  
Where house is not injured  
Penalty

*Carrying concealed weapons.*

7. If a person habitually carry about his person, hid from common observation, any pistol, dirk, bowie-knife, or any weapon of the like kind, he shall be fined not more than fifty dollars.

Habitual carrying of concealed weapons  
Penalty

## CHAPTER VII.

### OF OFFENCES AGAINST MORALITY AND DECENCY—PROTECTION OF RELIGIOUS MEETINGS.

*Persons marrying when former husband or wife is living; proviso.*

1. Any person who, being married, shall, during the life of the former husband or wife, marry another person in this state, or, if the marriage with such other person take place out of the state, shall thereafter cohabit with such other person in this state, shall be confined in the penitentiary not less than three, nor more than eight years.

Marrying when former husband or wife is living  
Penalty

2. The preceding section shall not extend to a person whose former husband or wife shall have been continually absent from such person for seven years next before marriage of such person to another, and shall not have been known by such person to be living within that time; nor to a person who shall, at the time of the subsequent marriage,

Proviso

have been divorced from the bond of the former marriage, or whose former marriage shall at that time have been declared void by the sentence of a court of competent jurisdiction.

*Marriage within prohibited degrees punished.*

Marriage in violation of §§ 9, 10, ch. 104, Code of 1873  
Penalty  
Residents of state, within prohibited degrees, or white person or negro, going out of state to be married, and afterwards returning  
Penalty  
Cohabitation evidence of marriage

3. If any person marry in violation of the ninth or tenth section of chapter one hundred and four of the Code of eighteen hundred and seventy-three, he shall be confined in jail not more than six months, or fined not exceeding five hundred dollars, at the discretion of the jury. And if any person, resident in this state, and within the degrees of relationship mentioned in those sections, or any white person and negro, shall go out of this state for the purpose of being married, and with the intention of returning, and be married out of it, and afterwards return to and reside in it, cohabiting as man and wife, they shall be as guilty, and be punished as if the marriage had been in this state. The fact of their cohabitation here as man and wife shall be evidence of their marriage.

*Issuing license or celebrating marriage contrary to law.*

Issuing marriage license contrary to law  
Penalty  
Performing marriage ceremony without license, or without authority  
Penalty

4. If any clerk of a court knowingly issue a marriage license contrary to law, he shall be confined in jail not more than one year, and fined not exceeding five hundred dollars.  
5. If any person knowingly perform the ceremony of marriage without lawful license, or affiliate in celebrating the rites of marriage without being authorized by law to do so, he shall be confined in jail not more than one year, and fined not exceeding five hundred dollars.

*Adultery and lewdness.*

Adultery and fornication  
Penalty  
Lewdness  
Penalty  
Penalty for second offence

6. If a person commit adultery or fornication, he shall be fined not less than twenty dollars.  
7. If any persons, not married to each other, lewdly and lasciviously associate and cohabit together, or, whether married or not, be guilty of open and gross lewdness and lasciviousness, they shall be fined not less than fifty nor more than five hundred dollars; and upon a repetition of the offence, and conviction thereof, they shall also be imprisoned in the county or corporation jail, at the discretion of the court or justice, for not less than six nor more than twelve months.

*White person marrying a negro, or celebrating such marriage.*

Marriage of a white person with a negro  
Penalty

8. Any white person who shall intermarry with a negro, or any negro who shall intermarry with a white person, shall be confined in the penitentiary not less than two nor more than five years.

9. Any person who shall perform the ceremony of marriage between a white person and a negro, shall forfeit two hundred dollars, of which the informer shall have one-half.

Penalty for performing marriage service

*Keeping house of ill-fame; obscene books, prints, &c.*

10. If a person keep a house of ill-fame, resorted to for the purpose of prostitution or lewdness, he shall be confined in jail not more than one year, and fined not exceeding two hundred dollars; and in a prosecution for this offence, the general character of such house may be proved.

Keeping house of ill-fame

Penalty

General character of house may be proved  
Obscene books, &c.

11. If a person import, print, publish, sell or distribute, any book or other thing containing obscene language, or any print, picture, figure or description, manifestly tending to corrupt the morals of youth; or introduce into any family or place of education, or buy, or have in his possession any such thing for the purpose of sale, exhibition or circulation, or with intent to introduce it into any family or place of education, he shall be confined in jail not more than one year, and fined not exceeding two hundred dollars.

Penalty

*Crime against nature.*

12. If any person shall commit the crime of buggery, either with mankind or with any brute animal, he shall be confined in the penitentiary not less than two nor more than five years.

Buggery

Penalty

*Violation of sepulture; injuries to burial-grounds.*

13. If a person, unlawfully, disinter or displace a dead human body, or any part of a dead human body, which shall have been deposited in any vault or other burial place, he shall be confined in jail not more than one year, and fined not exceeding five hundred dollars.

Violation of sepulture

Penalty

14. Every person who shall willfully and maliciously destroy, mutilate, deface, injure, or remove any tomb, monument, grave-stone, or other structure placed within any cemetery, grave-yard, or place of burial, or within any lot belonging to any memorial or monumental association, or any fences, railing, or other works for the protection or ornament of any tomb, monument, grave-stone, or other structure aforesaid; or of any cemetery lot within any cemetery; or shall willfully or maliciously destroy, remove, cut, break, or injure any tree, shrub, or plant within any cemetery or lot of any memorial or monumental association; or who shall willfully or maliciously destroy, mutilate, injure, or remove and carry away any flowers, wreaths, vases, or other ornaments placed upon or around any grave, tomb, monument, or lot in any cemetery, grave-yard, or other place of burial; or who shall willfully obstruct proper ingress and egress to and from any cemetery or lot belonging to any memorial association, shall be guilty of a misdemeanor, and be pun-

Willful and malicious injury to tombs, &c., in a cemetery, &c.

Obstruction of way to cemeteries, &c.

Penalty      ished by a fine not exceeding one hundred dollars, or by imprisonment in jail not exceeding six months.

*Cruelty to animals; profanity and drunkenness.*

Cruelty to animals      15. If a person cruelly beat or torture any horse, animal or other beast, whether his own or that of another, he shall be fined not exceeding fifty dollars.

Penalty      16. If any person, arrived at the age of discretion, profanely curse or swear, or get drunk, he shall be fined by a justice one dollar for each offence.

Profanity and drunkenness

*Violation of the Sabbath.*

Violation of Sabbath      17. If a person, on a Sabbath day, be found laboring at any trade or calling, or employ his apprentices or servants in labor or other business, except in household or other work of necessity or charity, he shall forfeit two dollars for each offence; every day any servant or apprentice is so employed constituting a distinct offence.

Penalty

*Exceptions as to the mail, and as to certain persons.*

Transportation of mail excepted      18. No forfeiture shall be incurred under the preceding section for the transportation on Sunday of the mail, or of passengers and their baggage. And the said forfeiture shall not be incurred by any person who conscientiously believes that the seventh day of the week ought to be observed as a Sabbath, and actually refrains from all secular business and labor on that day: provided he does not compel an apprentice or servant, not of his belief, to do secular work or business on Sunday, and does not on that day disturb any other person.

Exception as to certain religionists

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Sale of intoxicating liquors prohibited between certain hours      19. No bar-room, saloon, or other place for the sale of intoxicating liquors, shall be opened, and no intoxicating bitters or other drink shall be sold in any bar-room, restaurant, saloon, store, or other place, from twelve o'clock on each and every Saturday night of the week, until sunrise of the succeeding Monday morning; and any person violating the provisions of this section, shall be deemed guilty of a misdemeanor, and, if convicted, shall be punished by fine not less than ten nor more than five hundred dollars; and shall, moreover, at the discretion of the court, forfeit his license: provided that this law shall not apply to any city having police regulations on this subject, and an ordinance inflicting a penalty equal to the penalty inflicted by this section.

Penalty

Proviso

Disturbance of religious worship      20. If a person willfully interrupt or disturb any assembly met for the worship of God, or being intoxicated, if he disturb the same, whether willfully or not, he shall be confined in jail not more than six months, and fined not exceeding one hundred dollars, and a justice may put him under restraint during religious worship, and bind him for not more than one year to be of good behavior.

Penalty

21. If any person carrying any gun, pistol, bowie-knife, dagger, or other dangerous weapon, to any place of worship while a meeting for religious purposes is being held at such place, or without good and sufficient cause therefor, shall carry any such weapon on Sunday at any place other than his own premises, shall be fined not less than twenty dollars. Carrying dangerous weapons at a place of worship or on Sunday

If any offence under this section be committed at a place of religious worship, the offender may be arrested on the order of a conservator of the peace, without warrant, and held until warrant can be obtained, but not exceeding three hours. Penalty

It shall be the duty of justices of the peace, upon their own knowledge, or upon the affidavit of any person, that an offence under this section has been committed, to issue a warrant for the arrest of the offender. Offenders subject to arrest without warrant

Duty of justice where he knows of offence under this section

*Protection of religious assemblies; prohibition against sale of liquors or other things near such meetings; proviso.*

22. If any person shall erect, place, or have any booth, stall, tent, carriage, boat, vessel, vehicle, or other contrivance whatever, for the purpose or use of selling, giving, or otherwise disposing of any kind of spirituous and fermented liquors, or any other articles of traffic; or shall sell, give, barter, or otherwise dispose of any spirituous or fermented liquors, or any other articles of traffic within three miles of any camp-meeting, or other place of religious worship, during the time of holding any meeting for religious worship at such place, such person, on conviction before a justice of the peace, for the first offence, shall be fined not less than ten dollars, nor more than twenty dollars, and stand committed to jail until the fine and costs are paid; and for the second offence, shall be fined as aforesaid, and be imprisoned not less than ten nor more than thirty days. Sale of liquors, &c., prohibited

23. If any person shall commit any offence against the provisions of the preceding section, he shall, in addition to the penalties therein mentioned, forfeit all such spirituous or fermented liquors, and other articles of traffic, and all the chests and other things containing the same, belonging to and in the possession of the person so offending, together with such booth, stall, tent, carriage, boat, vessel, vehicle, or other contrivance or thing prepared and used in violation of said section; and it shall be the duty of any sheriff, deputy sheriff, or constable, if he sees any person violating the preceding section, to arrest the offender and carry him before a justice of the peace. The sheriff, deputy sheriff, or constable, when he arrests the offender, shall seize the property hereby declared to be forfeited, or shall seize the same on a warrant against the offender, if such offender cannot be found; and the justice of the peace before whom such offender is convicted, or before whom the warrant is returned that the offender cannot be found, shall enter judgment of condemnation against such property, and issue a fieri facias for the Penalty

Additional penalty

Duty of sheriffs, &c., to arrest offender and seize the property

Judgment of condemnation

Fl. sa. to issue sale thereof: provided the person who has been returned not  
 Proviso found, and whose property has been condemned in his ab-  
 sence, may appear at any time before the sale of the property  
 and have the case tried as if he had appeared at the return  
 of the warrant.

To whom pro- 24. The provisions of the two preceding sections shall not  
 visions not to apply apply to any licensed tavern-keeper, morechant, shop-keeper,  
 farmer, or other person in the usual and lawful transaction  
 of his ordinary business, in the usual place of transacting  
 such business, or to any person having permission, in writing  
 from the superintendent of such meeting, to sell such articles  
 as may be named in such permission: provided this permis-  
 sion shall not extend to the sale of any spirituous or fer-  
 mented liquors.

Proviso

### *Right of appeal.*

Right of appeal 25. Nothing in this chapter shall prevent the courts of  
 preserved record from exercising their common law or statutory juris-  
 diction in all cases for disturbing public worship: provided  
 Proviso that the party convicted under the twenty-second or twenty-  
 third sections of this chapter shall have the right to appeal  
 to the next county court for the county where the convic-  
 tion is had, upon giving bail for his appearance at court, and  
 upon such appeal shall be entitled to a trial by jury: and  
 provided further, that when any person or persons are pro-  
 ceeded against under the twenty-second or twenty-third sec-  
 tions of this chapter, he or they shall not be held to answer  
 for the same offence before any grand jury or court of record,  
 except as herein provided.

Persons pro-  
 ceeded against  
 not subject to  
 answer before  
 grand jury

### *Temporary police force for religious meetings.*

Temporary po- 26. The supervisor, or any justice of the magisterial dis-  
 lice authorized trict where the meeting is held, shall have power to appoint  
 a temporary police to enforce the provisions of this chapter.

## CHAPTER VIII.

### OF OFFENCES AGAINST PUBLIC HEALTH.

#### *Selling unsound provisions.*

Sale of unsound 1. If a person knowingly sell any diseased, corrupted, or  
 provisions unwholesome provisions, whether meat or drink, without  
 making the same known to the buyer, he shall be confined  
 in jail not more than six months, and fined not exceeding  
 one hundred dollars.

Penalty